



BRIEFING

Additional testing and movement restrictions for high-risk arrivals

Date:	30 December 2020	Priority:	High
Security classification:		Tracking number:	2021-1900

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Note progress and implementation approach to Day 0/1 testing and movement restrictions for high-risk arrivals	31 December 2020

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Milne	Acting DCE, MIQ	<small>Privacy of natural persons</small>	√

The following departments/agencies have been consulted
Health, Crown Law, DPMC

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



BRIEFING

Additional testing and movement restrictions for high-risk arrivals

Date:	30 December 2020	Priority:	High
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Purpose

To update you on progress with Day 0/1 testing and how movement will be restricted for high-risk arrivals who have been in the UK or the US for the preceding 14 days.

Executive summary

The increasing number of COVID-19 cases globally (particularly in the United States) and the new strain of COVID-19 identified in the United Kingdom has led to consideration of further precautionary measures to reduce the risk of COVID-19 entering New Zealand.

MBIE also considers it critical to protect the health and safety of our MIQ workforce and those that they come into contact with.

On Monday 28th December, you announced that new Day 0/1 testing measures should be introduced for high-risk arrivals into New Zealand and that these arrivals should isolate or quarantine in their allocated room at a facility until their initial test returned a result.

The ability to identify and swab high risk returnees on Day 0/1 will be in place from midnight Thursday 31 December. Stricter movement restrictions for high-risk arrivals is proving more challenging to implement, but we expect will be in place by midnight Friday 1 January. These new requirements will initially be applied to arrivals into New Zealand who have been in the United Kingdom or the United States during the preceding 14 days, but could be applied in the future to other locations deemed to be high risk.

We set out further details of our implementation approach below.

The Ministry of Health has noted that the benefit of stricter isolation measures is relatively small when considered alongside the other testing and existing control measures. Legal professional privilege

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Note** that pre-departure testing will not fully address the increased risk of infected travellers arriving in New Zealand with the more infectious variant of SARS-COV-2 that is circulating in the UK and the upward trend of cases globally (particularly in the US)

Noted

b **Note** that MBIE is implementing Day 0/1 testing for arrivals who have been in the UK and the United States during the preceding 14 days from midnight 31 December as per your previous direction

Noted

c **Note** that further restrictions on movements are desirable as a precautionary measure: to ensure adequate protection in Managed Isolation and Quarantine Facilities (MIQFs) against the potentially more transmissible strains of the virus; to ensure MIQ staff safety whilst pre-departure testing is being implemented; and in light of the emerging evidence around new strains of the virus and increases in cases globally

Noted

d **Note** that MBIE will implement the following additional temporary restrictions, generally, on movements within MIQFs for arrivals who have been in the UK and the United States during the preceding 14 days until their initial test has returned a negative result:

- a. Returnees will not be able to leave their room to take exercise or to access fresh air; and
- b. Returnees will not be permitted outside for smoking breaks.

e **Note** that a negative test result prior to boarding would not exempt the above arrivals from the additional testing or movement restrictions

Noted

f **Note** that some existing permissions that returnees have to leave their rooms and / or the MIQFs will continue to apply, including the:

- a. Ability to leave their rooms to preserve or protect their own or another person's life, health or safety in an emergency;
- b. Ability to leave to access medical or support services, where those services can't be provided in an isolation and quarantine facility;
- c. Ability to visit the room of a fellow resident if in the same travel bubble, in accordance with existing operational procedures; and
- d. Conditions imposed in any exemption to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 granted by the Minister for COVID-19 Response or the Director-General of Health.

Noted

g **Note** that additional mental health and support services will be provided to support stricter isolation in rooms and mitigate any adverse impacts on the wellbeing of guests

Noted

- h **Note** that for people who refuse or are unable to take a Day 0/1 test, the stricter restriction movements will continue to be applied whilst Medical Officer of Health advice is sought

Noted

- i **Note** that we will keep the following approach under review, particularly as pre-departure testing is implemented and as new evidence emerges about the UK strain of the virus

Noted



Andy Milne
Acting DCE, MIQ
MBIE

30 / 12 / 2020



Hon Chris Hipkins
Minister for COVID-19 Response

31 / 12 / 2020

Background

1. The increasing number of COVID-19 cases globally (particularly in the US) and the new strain of COVID-19 identified in the United Kingdom has led to consideration of further precautionary measures to reduce the risk of COVID-19 entering New Zealand.
2. On 23 December, Ministers with Power to Act agreed in principle that pre-departure testing would be introduced for people coming from the United Kingdom and subsequently from other identified high-risk countries subject to Ministry of Health and Crown Law advice. On 29 December, you received further advice on implementation of pre-departure testing for travellers from the United Kingdom [DPMC-2020/21-407 refers].
3. On Monday 28 December, you announced that:
 - a. Day 0/1 testing should be introduced for arrivals into New Zealand who have been in the United Kingdom or the United States during the preceding 14 days by 31 December.
 - b. That the above arrivals should be required to be in isolation or quarantine in their allocated room at a facility until their initial test has returned a result.
4. This briefing updates you on MBIE's decision to require new arrivals who are awaiting day 0/1 test results to remain in their room until their results are returned. It includes an outline of the issues and risks associated with this decision, as well as progress on implementation.

Rationale

5. Keeping COVID-19 out and preventing the entry of new cases of COVID-19 into New Zealand remains fundamental to our elimination strategy.
6. The risk of contracting COVID-19 on flights into New Zealand is currently low. However, this risk could be increasing due to the more infectious variant of SARS-COV-2 circulating in the UK and the upward trend of cases globally (particularly in the US).
7. The implementation of pre-departure testing requirements is expected to reduce the number of infected people arriving in New Zealand from the UK (where the new strand of the virus is the most prevalent). However, pre-departure testing requirements are unlikely to be in place before mid-January. Additionally, ensuring compliance with the new pre-departure testing requirements may take some time to fully bed in.
8. To limit the potential increase in transmission risk within MIQ facilities, additional testing on high-risk arrivals and stricter restrictions on movement whilst the test result is returned are now prudent – particularly whilst officials continue to review the emerging evidence around new strains of the virus and the increases in cases globally.
9. These measures are also a precautionary approach to ensure the health and safety of our MIQ workforce and the wider New Zealand public that our workers may come into contact with. The Health and Safety at Work Act 2015 imposes a two-pronged primary duty of care on persons conducting a business or undertaking (PCBUs) (which includes MBIE in its management of MIQF facilities) to ensure, so far as is reasonably practicable:
 - a) the health and safety of its own workers, and other workers whose activities are influenced or directed by the PCBU; and
 - b) that the health and safety of other persons is not put at risk from work carried out by the PCBU.

10. The other persons whose health and safety is put at risk by MIQ facilities includes the wider New Zealand public given that community transmission of COVID-19 is a possible consequence if a worker in a facility were to become infected.
11. Where a duty is imposed on a person under the Act, the person is required:
 - a) To eliminate risks to health and safety, so far as is “reasonably practicable”; and
 - b) If this is not reasonably practicable, to minimise those risks so far as is reasonably practicable.

Implementation of Day 0/1 testing

12. MBIE, MoH, PHU’s and DHB’s have been collaborating to update the National Border Solution (NBS), operating procedures and processes for identifying and managing returnees from high risk designated countries. This includes cohort management, updating communications collateral for returnees and guidance for staff.
13. The ability to identify and swab high risk returnees on Day 0/1 will be in place from midnight Thursday 31 December.

Implementation of additional movement restrictions

14. MBIE will implement additional movement restrictions within 24 hours of the implementation of Day 0/1 testing.
15. Guests in MIQF facilities are currently permitted to leave their rooms for limited exercise or smoking breaks. We propose to limit both smoking breaks and exercise until a negative result from the Day 0/1 test is returned to address the risks identified earlier.
16. We expect that these additional limitations on movement would generally be in place for a period of 24-36 hours, whilst test results are processed and returned. All reasonable priority would be given to the testing to ensure that results are returned swiftly. However, some test results may take up to 72 hours.

Other general operational requirements to be applied

17. We note that a number of specific permissions for a person to leave their place of isolation or quarantine are already provided for under the Covid-19 Public Health Response (Isolation and Quarantine Order) 2020. These (unlike the ability to go out to smoke, exercise, and get fresh air) are not at the discretion of the CE of MBIE and will continue to apply. They include the ability to leave your room or place of isolation:
 - a. To preserve or protect their own or another person’s life, health of safety in an emergency. For example, if the fire alarm goes off.
 - b. To access medical services, where those services can’t be provided in an isolation and quarantine facility. We note that a large number of medical services are provided within MIQFs currently.
 - c. To visit the room of a fellow resident if in the same travel bubble. We note that families are sometimes split across rooms.
 - d. In accordance with the conditions imposed in any exemption to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 granted by the Minister for COVID-19 Response or the Director-General of Health.
18. Any proposed abrogation of the above rights would likely require a change to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

19. Other general operational requirements that would be applied would include:
 - a. A negative test result prior to boarding would not exempt affected persons from the additional movement restrictions; and
 - b. People who receive a positive test result from the Day 0/1 test would subsequently go to a quarantine facility in accordance with current operating procedures
20. For people who refuse a day 0/1 test or are unable to take one, they will continue to have the stricter movement restrictions applied whilst advice is sought from a Medical Officer of Health. The matter will then be referred to the CE of MBIE, or designated delegate, for a determination on actions to be taken.

Risks and issues

Human rights obligations

21. The above approach may be challenged as inconsistent with the New Zealand Bill of Rights obligations or New Zealand's obligations under OPCAT (the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment). The Chief Ombudsman has a monitoring role with respect to MIQF facilities against OPCAT and has stated that the fundamental rights of detained people must be fully respected. This includes, in particular, the right to daily access to the open air of at least one hour.

Additional health and wellbeing support will be provided

22. All arrivals receive a full health and wellbeing screening by a registered nurse within 24 hours of arrival into managed isolation. The screen includes a COVID-19 symptom check, an assessment of temperature, and questions around non-COVID-19 related physical health, mental health, addiction and welfare needs. Health staff will be able to identify who is required to isolate in their rooms until a day 0/1 negative result is returned and will ensure any issues arising from that are identified.
23. The information gathered in the arrival health and wellbeing screen helps inform the provision of health and wellbeing support to returnees. Returnees can also raise any health and wellbeing concerns as they arise throughout their stay during daily health and wellbeing checks or by contacting the health team onsite directly.

Fire risk and hotel damage

24. There is some risk that smokers will choose to smoke in their rooms, increasing the fire risk and potential damage to hotel rooms. As part of additional health and wellbeing support, smokers will be able to be provided with nicotine patches to assist with their wellbeing. We will also monitor compliance with the smoking requirements. ✓

Comparison with quarantine facility controls

25. We note that guests in quarantine facilities will still have limited access to exercise and smoking breaks, in accordance with current procedures. There will be some blurring between the controls being applied to high-risk facilities and those being applied to high-risk arrivals. However, the latter is only a temporary restriction. We will review whether the risk settings between the two are proportionate over the coming weeks.

Ministry of Health comment

26. Health recognises that this proposed requirement could potentially reduce the risk of a hotel or managed isolation facility worker contracting COVID-19 from a passenger from the UK or

US due to their contact with people and/or surfaces while not in their rooms pending their day 0/1 test results.

27. However, this risk is already very low due to strong IPC measures and will be further reduced through the requirement for day 0/1 testing from 31 December and the upcoming amendment to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 requiring pre-departure testing. Thus, the benefit from an additional measure requiring stricter isolation measures is relatively small when considered alongside the other testing measures.
28. Currently, there are already significant restrictions on guest movement within a MIF, including only leaving their room for smoking or exercise. These restrictions will continue to apply for those awaiting a day 0/1 test result.
29. Given the marginal additional benefit it could provide, including this requirement would likely not be considered justified or proportionate at this time.

Legal professional privilege

Legal professional privilege